UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DANIELLA MALMQUIST FARINA,

Plaintiff,

v.

COUNTY OF NAPA, CALIFORNIA, and JUDGE CYNTHIA P. SMITH,

Defendants.

No. C 22-00495 WHA

ORDER TO SHOW CAUSE

Plaintiff Daniella M. Farina has filed a *pro se* complaint against two defendants, Judge Cynthia P. Smith and the County of Napa, California. She has now voluntarily and as of right dismissed Judge Smith. This order nonetheless exercises our *sua esponte* obligation to independently inquire into subject-matter jurisdiction. Plaintiff is now **ORDERED TO SHOW CAUSE** why all claims against County of Napa should not be dismissed for lack of subject-matter jurisdiction.

At all relevant times, Judge Smith presided over a state suit about inherited property (the "partition action") involving our plaintiff. That suit remains pending in Napa County Superior Court. *See Victor R. Alam v. Daniela Farina*, Superior Ct. Napa County, 2020, No. 20CV001167 (Compl. ¶ 8).

During an earlier stage of the partition action, plaintiff moved Judge Smith for a "reader" to accommodate her visual disability. The reader was to verbalize written court materials (*see id*. ¶¶ 30–41, 43, 54). Judge Smith granted the request, with

certain limitations: Napa County Superior Court staff were made available to read case documents to plaintiff for up to two hours each week, by appointment (*id.* ¶ 33).

The complaint now charges that the accommodation proved inadequate: the readers were "unqualified;" plaintiff "has not [had] or has had extremely limited ADA reader services at hearings;" the order should not have restricted the readers to the portions of the documents directly related to plaintiff; and the court prevented plaintiff from bringing a friend to read during a hearing (*id.* ¶¶ 13, 14, 34, 41, 43, 54). The complaint contends that Judge Smith's decision caused plaintiff to lose every motion in the partition action (*id.* ¶ 54). The complaint alleges violations of Title II of the ADA as well as the First and Fourteenth Amendments, under 42 U.S.C. § 1983. She seeks damages and injunctive relief.

It appears that the *Rooker-Feldman* doctrine deprives the district court of subject-matter jurisdiction. A *pro se* pleading must be "liberally construed." *Balistreri v. Pacifica Police Dep't,* 901 F.2d 696, 699 (9th Cir. 1990). Allegations of fact in the complaint must be taken as true and construed in the light most favorable to the nonmoving party. *Parks School of Business, Inc., v. Symington,* 51 F.3d 1480, 1484 (9th Cir. 1995).

The *Rooker-Feldman* doctrine bars plaintiff's claims. *See Dist. of Columbia Court of Appeals v. Feldman,* 460 U.S. 462, 476 (1983); *Rooker v. Fidelity Trust Co.,* 263 U.S. 413, 415 (1923). "It is a forbidden de facto appeal under *Rooker-Feldman* when the plaintiff in federal district court complains of a legal wrong allegedly committed by the state court, and seeks relief from the judgment of that court." *Noel v. Hall,* 341 F.3d 1148, 1163 (9th Cir. 2003). Under *Rooker-Feldman,* district courts also lack subject-matter jurisdiction to "scrutinize the state court's application of various rules and procedures pertaining to [the] case." *Allah v. Superior Court,* 871 F.2d 887, 891 (9th Cir. 1989), *superseded by rule on other grounds, as stated in Harmston v. City & Cty. of S.F.,* 627 F.3d 1273 (9th Cir. 2010). Even if the complaint does not match one-for-one the issues plaintiff raised to the state court, the

federal claim is "inextricably intertwined" with the state court decision and thus barred by *Rooker-Feldman* "[i]f the injury alleged" federally "resulted from the state court judgment itself," and not the actions of a third party. *Bianchi v. Rylaarsdam*, 334 F.3d 895, 900–01, n.4 (9th Cir. 2003) (quoting *Garry v. Geils*, 82 F.3d 1362, 1365 (7th Cir.1996)).

Our facts fall squarely under the doctrine. Plaintiff challenges Judge Smith's decision to grant the limited assistance of a reader. She also appears to find broad fault with the decision's implementation. Judge Smith's decision "finally resolve[d] the issue that the federal court plaintiff seeks to relitigate in a federal forum, even" though the partition itself "remain[s] pending at the state level." *Mothershed v. JJ. of S. Ct.*, 410 F.3d 602, 604 (9th Cir. 2005), *as amended*, 2005 WL 1692466 (9th Cir. July 21, 2005). Plaintiff's First- or Fourteenth-Amendment claims herein concern the same facts. They thus appear inextricably intertwined with the ADA claim. Furthermore, assertions about the *Rooker-Feldman* doctrine that appear in the complaint are not facts and this order does not presume them true. *Cf. Symington*, 51 F.3d at 1484 (Compl. ¶¶ 57–65). In short, plaintiff now "assert[s] as a legal wrong an allegedly erroneous decision by a state court" so she may not pursue relief in the district court for that wrong. *Noel*, 341 F.3d at 1164.

This order notes that *Montez v. Department of the Navy* is inapposite. 392 F.3d 147, 150 (5th Cir. 2004). It suggested that a district court should presume jurisdiction when fact issues going to the merits would also determine subject-matter jurisdiction. That situation appears inapposite. This order need not entertain the merits of plaintiff's ADA claim to conclude that plaintiff raises a de facto appeal of a state-court order. Though our court of appeals has not reached this precise issue, other district courts agree. *See, e.g., Sidiakina v. Bertoli*, 2012 WL 12850130, at *3–4 (N.D. Cal. Sept. 7, 2012) (Judge Jeffrey S. White), *aff'd,* 612 Fed. Appx. 477 (9th Cir. 2015); *Bernstein v. United States Dept. of Hous. & Urb. Dev.*, 2021 WL 1530939, at *4 (N.D. Cal. Apr. 19, 2021) (Judge Jacqueline Scott Corley); *McDaniels*

v. Dingledy, 2021 WL 5564727, at *5 (W.D. Wash. Nov. 29, 2021) (Judge Brian A. Tsuchida). The *Rooker-Feldman* doctrine thwarts all claims.

Plaintiff has **TWENTY-ONE DAYS** in which to **SHOW CAUSE** why this action against the remaining county defendant should not be **DISMISSED**.

IT IS SO ORDERED.

Dated: May 16, 2022.

WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

United States District Court
Northern District of California